REMARKS

This Application has been carefully reviewed in light of the Final Action mailed January 25, 2006. In order to advance prosecution of this Application, Claims 3, 4, 9, 11, 12, 16, 20, 27, and 31 have been amended and Claims 5-8 and 17 have been canceled without prejudice or disclaimer. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 1-3, 10, 15, 16, and 18-32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bianchini, Jr., et al. in view of Proctor, et al. Applicant respectfully traverses this rejection.

Independent Claim 1 recites ". . . after assigning a first data flow f_1, routing to said first switching pathway data packets of at least said first data flow f_1; upon the determination of a first condition, assigning at least some of the data packets of said first data flow f_1 to a second switching pathway; routing said at least some data packets of said first data flow f_1 to said second switching pathway having a second buffer coupled to a second switching fabric . . ." By contrast, the Bianchini, Jr., et al. patent does not reassign data packets of a first flow from a first switching pathway to a second switching pathway followed by routing some data packets of the first flow to the second switching pathway. If a switch fabric of the Bianchini, Jr., et al. patent fails, the data flow thereto is merely reconstructed from a parity strip of data and the data flow to the failed switch fabric is not assigned let alone routed to another switching fabric. The Proctor, et al. patent is merely cited for its data buffers and does not include any additional disclosure combinable with the Bianchini, Jr., et al. patent

that would be material to patentability of these claims. Thus, the proposed Bianchini, Jr., et al. - Proctor, et al. combination does not assign and then route at least some of the data packets of said first data flow f_1 to a second switching pathway upon the determination of a first condition as required by the claimed invention. Moreover, the Examiner has not shown that all of the conditions specified in Claim 3 are shown by the cited patents. Therefore, Applicant respectfully submits that Claims 1, 3, 10, and 15 are patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 2 recites ". . . routing to said first switching pathway data packets of at least said first data flow f_1 and said second data flow f_2; upon the determination of a first condition, assigning at least some of the subsequent data packets of said second data flow f_2 of said stream S to a second switching pathway; routing said at least some data packets of said second data flow f_2 to said second switching pathway." By contrast, as shown above, the Bianchini, Jr., et al. patent does not assign and then route data packets to a second switching pathway for a data flow previously assigned to a first switching pathway upon the determination of a first condition. Moreover, the Bianchini, Jr., et al. patent fails to disclose routing two data flows to a first switching pathway. Therefore, Applicant respectfully submits that Independent Claim 2 is patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 16 has been amended to include the allowable limitation of Claim 17.

Independent Claim 18 recites ". . . a controller, operatively coupled to said data demultiplexor so as to route data packets of said stream S to various ones of said K data buffers until the occurrence of a predetermined event, the controller operable to re-assign at least some of the data packets of said stream S to different ones of said K buffers upon the occurrence of the predetermined event." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-assignment of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Moreover, the Examiner has not shown that all of the conditions specified in Claim 20 are shown by the cited patents. Therefore, Applicant respectfully submits that Claims 18-24 are patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 25 recites ". . . wherein data packets of a first flow f_1 of said stream S are routed by said data flow demultiplexor to a first switch matrix, and upon the detection of a predetermined event by said controller, at least a portion of said first flow f_1 is re-routed to a second switch matrix." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Therefore, Applicant respectfully submits that Independent Claim 25 is patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 26 recites ". . . a data flow demultiplexor, having an input coupled to the input port so as to receive said stream S, and further having K outputs and a control input, said data flow demultiplexor routing data

packets of said data flows f_1-f_n to different ones of said K data outputs, and in response to the occurrence of at least one predetermined event in said data switch, re-routing data packets of at least one of said data flows f_1-f_n from a first data output to a second data output . . ." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Moreover, the Examiner has not shown that all of the conditions specified in Claim 27 are shown by the cited patents. Therefore, Applicant respectfully submits that Claims 26 and 27 are patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 28 recites ". . . routing at least a first portion of a first data flow f_1 in said stream S to a first switching pathway; upon the determination of a predetermined condition of said first switching pathway, routing at least second portion of said first data flow f_1 to a second switching pathway." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Therefore, Applicant respectfully submits that Independent Claim 28 is patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 29 recites ". . . routing at least a first portion of a first data flow f_1 in said stream S to a first switching pathway; upon the determination of a predetermined condition in a second switching pathway, routing

at least second portion of said first data flow f_1 to said second switching pathway." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Therefore, Applicant respectfully submits that Independent Claim 29 is patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 30 recites ". . . routing at least a first portion of a first data flow f_1 in said stream S to a first switching pathway; upon the determination of a predetermined condition in a second switching pathway, routing at least second portion of said first data flow f_1 to a third switching pathway." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Therefore, Applicant respectfully submits that Independent Claim 30 is patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 31 recites ". . . upon the determination of a predetermined condition in said switching system . . . then, routing at least second portion of said first data flow f_1 to a second switching pathway." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Moreover, the Examiner has not shown that all of the conditions specified in Claim 31 are shown by the cited patents. Therefore, Applicant respectfully submits that Independent Claim 31 is patentably

distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 32 recites ". . . routing a plurality of flows f_1-f_n in said stream S to a first switching pathway comprised of a first data buffer having an output coupled to a corresponding first switching fabric; upon the determination of the existence of a first condition, routing at least some of the data packets of a first data flow f_i to a second switching pathway." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Moreover, the Examiner has not shown that the cited patents disclose routing a plurality of data flows to a first switching pathway. Therefore, Applicant respectfully submits that Independent Claim 32 is patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Applicant notes with appreciation the allowability of Claims 4-9, 11-14, and 17 if placed into appropriate independent form. Claims 5-8 have been canceled without prejudice or disclaimer. Claim 4 has been amended into independent form and includes the conditions of Claims 5-8. Claims 11 and 12 have been amended into independent form. Claim 17 has been canceled without prejudice or disclaimer. Independent Claim 16 has been amended to include the allowable limitation of Claim 17. Therefore, Applicant respectfully submits that Claims 4, 9, 11-14, and 17 are in condition for allowance.

This Response to Examiner's Final Action is necessary to address the Examiner's current characterization of the cited art in support of the rejections to the claims. This Response

to Examiner's Final Action could not have been presented earlier as the Examiner has only now provided the current characterization of the cited art in support of the claim rejections.

With the presentation of four new independent claims, an additional filing fee is due. Please charge Deposit Account No. 02-0384 of BAKER BOTTS L.L.P. in an amount of $800 to satisfy the excess independent claims fee of 37 C.F.R. §1.16(b).

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicants respectfully request full allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

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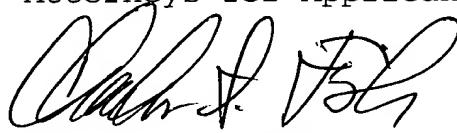
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